

This record is a partial extract of the original cable. The full text of the original cable is not available.

C O N F I D E N T I A L SECTION 01 OF 02 BOGOTA 010392

SIPDIS

E.O. 12958: DECL: 11/03/2015

TAGS: [PGOV](#) [PTER](#) [CO](#) [FARC](#) [AUC](#)

SUBJECT: VICE PRESIDENT ON "POST-CONFLICT"; PROMINENT
LAWYER SAYS PARA PROCESS TOUGHER THAN POSSIBLE FARC DEAL

Classified By: Ambassador William B. Wood.

Reason: 1.4 (b,d)

Summary

1. (C) Vice president Francisco Santos said at a restorative justice conference November 2 that Colombia's paramilitary demobilization process was a "post-conflict situation" requiring deft management if Colombia was to avoid "the problems of Central America or the Southern Cone" on crime and human rights. Former vice Justice Minister Rafael Nieto explained the political context in which the Congress approved the Justice and Peace law, defended in broad terms its provisions, and argued that a future FARC "peace deal" would almost certainly involve "less justice and more impunity" than the paramilitary peace process. End summary.

Santos: Task is to Manage Post-Conflict Situation

2. (C) Santos opened the "restorative justice" seminar by saying Colombia's task was to manage a post-conflict situation to avoid suffering "the problems of Central America or the Southern Cone" on crime and human rights. Referring to two seminar participants who formerly served on South Africa's Truth and Reconciliation Commission, he said Colombia is a democracy that is anxious to learn from the experiences of other countries which have gone through comparable post-conflict experiences. He said the GOC's goal was the "absolute and total" dismantling of paramilitary structures. Colombia had to "punish perpetrators and make victims whole," he said. Santos rejected the view that the Justice and Peace law was "a law of total impunity," and predicted that "in the not too distant future" the FARC would seek to take advantage of it. The vice president said the GOC would make a major effort to explain the Justice and Peace law's reconciliation and reparations objectives through a series of regional seminars that the National Commission on Reparations and Reconciliation would carry out. Santos urged participants "not to doubt the goodwill of the government" as it pursued peace talks with the paramilitaries or other armed groups.

Context: Paras Not Defeated on Battlefield

3. (C) Former vice Justice Minister Rafael Nieto said the Justice and Peace law could not be understood without an appreciation for the fact that the State did not defeat the paramilitaries on the battlefield and therefore had to make compromises. The law reflects a tension between the needs of peace (a reduction in violence) and the goals of truth, justice, and reparations. The government's task was to fashion an agreement that achieved the maximum justice and truth without fracturing the peace process.

Law Not Perfect, but Strong and Worth Supporting

4. (C) In Nieto's view, the Justice and Peace law has more justice and less impunity than any previous Colombian peace process (all of which involved leftist guerrillas) and, he suggested, any future peace process with the FARC. He predicted that a future FARC peace deal would have "less justice and more impunity" than the current paramilitary peace process. The law was not perfect, but is strong and worth supporting, he said.

5. (C) Nieto argued that the law's incentives strongly suggest Colombia will hear more "truth" than critics expect. He said paramilitaries run a serious risk of being investigated and charged for crimes to which they do not confess during their "version libre" statements because there is no statute of limitations on gross human rights violations. They can never be sure that information from governments and NGOs about their atrocities would not catch up with them one day. Nieto said the law provides for such prosecutions under the regular criminal justice system, which includes lengthy sentences.

16. (C) Paramilitaries who are sentenced under the law cannot hold elective office, Nieto said. He explained that such people have by definition been convicted of crimes of such magnitude that they are not "pardonable." Such crimes include kidnapping, genocide, torture, narcotics trafficking, and certain intentional homicides. In addition, under provisions of the Colombian Constitution, people with convictions that are not "pardonable" are explicitly barred from holding elective office.

17. (C) Nieto discounted the view that paramilitaries would be able to "legitimize" or "launder" their illegally-obtained properties through the Justice and Peace law. He said it would have been preferable to be explicit in the law on how to identify and confiscate such properties, but argued that Colombia's law on seizing illegally-obtained assets ("extincion de dominio") would ensure that paramilitaries could not sleep safely as long as they held illicit property.

The "extincion de dominio" provisions would follow paramilitaries in the same way that regular justice system would follow them in cases in which they did not confess to crimes, he said.

----- --
Extradition Essential to Keep Pressure On Paras
----- --

18. (C) Nieto insisted that the threat (and reality) of extradition, in particular to the U.S., was essential to keep the paramilitaries focused on the demobilization process. Most paramilitaries prefer eight years in a Colombian jail to 40 years in a U.S. cell. Without the extradition "Sword of Damocles" hanging over their heads, paramilitaries would not be in a rush to demobilize, in Nieto's view.

Comment

19. (C) We continue to do what we can to discourage premature "post-conflict" talk.
WOOD